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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MUNICIPAL TRUST AND SAVINGS BANK,)
Plaintiff)

Vs.)

MARIANNE CLARK, TRUSTEE OF THE)
ROCK CREEK TRUST, et.al.,)
Defendants)

UNITED STATES OF AMERICA,)
Counterclaimant,)

Vs.)

REX E. BLACK, CAROL L. BLACK,)
AARON BLACK and/or MARIANNE CLARK,)
Trustee of the ROCK CREEK TRUST,)
ILLINOIS DEPARTMENT OF REVENUE, and)
MUNICIPAL TRUST AND SAVINGS BANK,)
Counterclaim-Defendants.)

No. 04-C-6725

Judge Shadur

ORDER AMENDING JUDGMENT OF FORECLOSURE
AND RESETTING UNITED STATES MARSHAL'S SALE

This cause, coming to be heard on the Motion made by Plaintiff, MUNICIPAL TRUST AND SAVINGS BANK to re-set the United States Marshal's Sale in the above entitled cause of action; Plaintiff, MUNICIPAL TRUST AND SAVINGS BANK, an Illinois Bank Corporation, appearing by its attorney, Jerome C. Shapiro; the Defendant, THE UNITED STATES OF AMERICA, appearing by Douglas W. Snoeyenbos, Attorney at Law of the Tax Division of the United States of America Department of Justice; the Court having heard arguments and being fully advised in the premises:

It appearing that a public auction of the Manteno property on July 20, 2005, conducted by the U.S. Marshal pursuant to Article 7 of this Court's Judgment of Foreclosure entered on June 17, 2005, did not result in any bids, and it further appearing, and Municipal Trust and Savings Bank and the United States of America being in

agreement (though Municipal Trust and Savings Bank objects to a minimum bid requirement), that another public auction of the Manteno property should be conducted,


IT IS HEREBY ORDERED that another public auction of the Manteno property shall be conducted, in accordance with Article 7 of this Court's Judgment of Foreclosure entered on June 17, 2005, except that the following paragraphs of that Article 7 shall be amended to read as follows:

"3. The Manteno property shall be sold to the party making the highest bid, so long as that highest bid equals or exceeds the sum of \$625,000."

"4. Any person wishing to bid at the sale shall display to the United States Marshal, or his representative, proof that he or she is able to deposit with the Marshal, by cash or certified or cashier's check, in the sum of \$20,000. The successful high bidder shall then deposit the sum of \$20,000 with the Marshal immediately after the conclusion of the auction."

"5. Within 30 days after the auction, the successful high bidder shall pay to the Marshal the balance of the amount of his or her bid by cash (including wire transfer) or certified or cashier's check. If the high bidder fails to tender the balance of the high bid price, his or her deposit shall be forfeited and retained as part of the proceeds of the sale."

Dated this 5th day of October, 2005.



Judge Milton I. Shadur
United States District Court Judge
Northern District of Illinois

Order Prepared By:
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MUNICIPAL TRUST AND SAVINGS BANK,)	
Plaintiff)	
)	
vs.)	No. 04-C-6725
)	
MARIANNE CLARK, TRUSTEE OF THE)	Judge Shadur
ROCK CREEK TRUST, et.al.,)	
Defendants)	
)	
UNITED STATES OF AMERICA,)	
Counterclaimant,)	
)	
vs.)	
)	
REX E. BLACK, CAROL L. BLACK,)	
AARON BLACK and/or MARIANNE CLARK,)	
Trustee of the ROCK CREEK TRUST,)	
ILLINOIS DEPARTMENT OF REVENUE, and)	
MUNICIPAL TRUST AND SAVINGS BANK,)	
Counterclaim-Defendants.)	

JUDGMENT OF FORECLOSURE

NOW COMES for hearing the merits of the Complaint for Foreclosure filed herein by Plaintiff upon Plaintiff's Motion for Summary Judgment this Court, having considered the evidence and arguments of counsel and being advised in the premises, makes these FINDINGS:

I. JURISDICTION.

(1) a. The following Defendants have each been properly served with a summons and a copy of the Complaint on the dates shown, and having failed to file an answer or other responsive pleading to said Complaint herein although more than thirty days have passed since such service, are ordered defaulted:

REX E. BLACK;

b. MARIANNE CLARK, TRUSTEE OF ROCK CREEK TRUST; MARIANNE CLARK AND LINDA MITCHELL, TRUSTEES UNDER THAT CERTAIN TRUST AGREEMENT DATED JUNE 12, 1998 AND KNOWN AS ROCK CREEK TRUST; CAROL L. BLACK "Unknown Owners", "Unknown Tenants", and "Nonrecord Claimants", were duly served by publication of a notice in the *Labor Record*, a secular daily newspaper of general circulation in Will, Illinois one time per week during three consecutive weeks commencing January 15, 2004 and ending January 29, 2004 pursuant to 735 ILCS 5/2-206 and said Defendants have failed to answer the Complaint or otherwise enter any appearance herein although more than thirty days have passed since the first said publication, and the

default date published as aforesaid has passed, and said Defendants, and nonrecord claimants are ordered defaulted.

c. The following Defendants filed an answer or responsive pleadings herein by counsel as shown: UNITED STATES OF AMERICA; CAROL L. BLACK

(2) The court specifically finds service of process in each instance was properly made in accordance with the Code of Civil Procedure.

(3) This court has jurisdiction over all the parties hereto and the subject matter presented herein.

II. EVIDENTIARY FINDINGS.

(1) Plaintiff filed a Complaint herein to foreclose the mortgage (or other conveyance in the nature of a mortgage) (herein called "mortgage") hereinafter described and joined the following persons as Defendants:

MARIANNE CLARK, TRUSTEE OF ROCK CREEK TRUST; MARIANNE CLARK AND LINDA MITCHELL, TRUSTEES UNDER THAT CERTAIN TRUST AGREEMENT DATED JUNE 12, 1998 AND KNOWN AS ROCK CREEK TRUST; REX E. BLACK; CAROL L. BLACK; "UNKNOWN OWNERS"; "UNKNOWN TENANTS"; and, "NONRECORD CLAIMANTS",

(2) Attached to the Complaint as Exhibits "A" and "B" are copies of said mortgage and note secured thereby. Exhibits "A" and "B" are admitted into evidence, and any originals presented may be withdrawn.

(3) Information concerning mortgage:

- a. Nature of instrument: Mortgage
- b. Date of mortgage: November 3, 1998
- c. Name of mortgagor(s): MARIANNE CLARK AND LINDA MITCHELL, TRUSTEES UNDER THAT CERTAIN TRUST AGREEMENT DATED JUNE 12, 1998 AND KNOWN AS ROCK CREEK TRUST
- d. Name of mortgagee: MUNICIPAL TRUST & SAVINGS BANK
- e. Date and place of recording: November 17, 1998
Will County Recorder
Will County, Illinois
- f. Identification of recording: Document No. R 98137102
- g. Interest subject to the mortgage: Fee Simple
- h. Amount of original indebtedness including subsequent advances made under the mortgage(s): \$251,507.00
- i. Description:
 - 1. The legal description of the mortgaged premises:

The East half of the Southeast Quarter of Section 33, Township 33 North, Range 12 East of the Third Principal Meridian, in Will County, Illinois.

Pin No. 20-33-400-002

2. Common address or location of mortgaged premises:

Center and Country Line Road, Peotone, Illinois 60468 (a/k/a herein as "the Manteno property)

j. Defaults consist of payments which have become due under the secured note which is in default and in arrears in the total amount of: \$46,434.39 as of May 3, 2005.

k. The total amount due as of May 3, 2005 is:

Unpaid balance of principal interest	\$219,550.72
Late charges	\$ 2,106.46
Title expenses paid	\$ 280.00
Court and Publication costs paid to date	\$ 896.81
Plaintiff's attorneys, fees	\$ 10,278.50
Total Balance Due	\$233,112.49

l. The name of the present owner of said real estate is:

MARIANNE CLARK, TRUSTEE OF ROCK CREEK TRUST

m. The names of other persons who are joined as Defendants and whose interest in or lien on the mortgaged real estate is sought to be terminated are:

MARIANNE CLARK AND LINDA MITCHELL, TRUSTEES UNDER THAT CERTAIN TRUST AGREEMENT DATED JUNE 12, 1998 AND KNOWN AS ROCK CREEK TRUST; REX E. BLACK; CAROL L. BLACK; "UNKNOWN OWNERS"; "UNKNOWN TENANTS"; and, "NONRECORD CLAIMANTS"

n. The names of Defendants personally liable for the deficiency, if any are:

REX E. BLACK; CAROL L. BLACK.

o. The capacity in which Plaintiff brings this foreclosure is as the owner and legal holder of said note, mortgage and indebtedness.

III. DEEMED ALLEGATIONS PROVED.

(1) On the date indicated in the Complaint, the obligors of the indebtedness or other obligations secured by the mortgage was justly indebted in the amount of the indicated original indebtedness to the original mortgagee or payee of the mortgage note.

(2) The Exhibits attached to the Complaint are true and correct copies of the mortgage and note.

(3) The mortgagors were, at the date indicated in the Complaint, owners of the interest in the real estate described in the Complaint and as of that date made, executed, and delivered the mortgage as security for the note or other obligations.

(4) The mortgage was recorded in the county in which the mortgaged real estate is located, on the date indicated, in the book and page or as the document number indicated;

(5) Defaults occurred as indicated in the Complaint and in evidence or affidavit presented to the court.

(6) The persons named as present owners are the owners of the indicated interests on and to the real estate described.

(7) The mortgage lien claim of the Plaintiff, MUNICIPAL TRUST & SAVINGS BANK, constitutes a valid, prior and paramount lien upon the indicated interest in the mortgaged real estate, which lien is prior and superior to the right, title interest, claim or lien of all parties and nonrecord claimants. The tax lien claim of the United States of America is subordinate to the mortgage lien claim of the Plaintiff, MUNICIPAL TRUST & SAVINGS BANK. The interests of all parties, and non record claimants, other than the Plaintiff, MUNICIPAL TRUST & SAVINGS BANK, and the United States of America, in the mortgaged real estate, are terminated by this foreclosure.

(8) By reason of the defaults alleged and proved, if the indebtedness had not matured by its terms, the same became due by the exercise, by the Plaintiff or other persons having such power, of a right or power to declare immediately due and payable the whole of all indebtedness secured by the mortgage.

(9) Any and all notices of default or election to declare the indebtedness due and payable or other notices required to be given have been duly and properly given.

(10) Any and all periods of grace or other periods of time allowed for the performance of the covenants or conditions claimed to be breached or for the curing of and breaches have expired.

(11) The amount indicated to be due is broken down in the statement in the Complaint or in the evidence or Affidavit presented to the court into various items; the same are correctly stated and if such breakdown indicated any advances made or to be made by the Plaintiff or owner of the mortgage indebtedness, such advances were, in fact, made or will be required to be made, and under and by virtue of the mortgage the same constitute additional indebtedness secured by the mortgage.

IV. FEES AND COSTS.

(1) Plaintiff has been compelled to employ and retain attorneys to prepare and file the Complaint and to represent and advise the Plaintiff in the foreclosure of the mortgage, and the Plaintiff has and will thereby become liable for the usual, reasonable and customary fees of the attorneys in that behalf.

(2) The Plaintiff has been compelled to advance or will be compelled to advance, various sums of money in payment of costs, fees, expenses and disbursements incurred in connection with the foreclosure, including, without limiting the generality of the foregoing, filing fees, stenographer's fees,

witness fees, costs of publication, costs of procuring and preparing documentary evidence and costs procuring abstracts of title, Torrens certificates, foreclosure minutes and a title insurance policy.

(3) Under the terms of the mortgage, all such advances, costs, attorneys, fees and other fees, expenses and disbursements are made a lien upon the mortgaged real estate and the Plaintiff is entitled to recover all such advances, costs, attorneys' fees, expenses and disbursements, together with interest on all advances at the rate provided in the mortgage, or, from the date on which such advances are made.

(4) In order to protect the lien of the mortgage, it may or has become necessary for Plaintiff to pay taxes and assessments which have been or may be levied upon the mortgaged real estate.

(5) In order to protect and preserve the mortgaged real estate, it has or may also become necessary for the Plaintiff to pay fire and other hazard insurance premiums on the real estate or to make such repairs to the real estate as may reasonably be deemed necessary for the proper preservation thereof.

(6) Under the terms of the mortgage, any money so paid or expended has or will become an additional indebtedness secured by the mortgage and will bear interest from the date such monies are advanced at the rate provided in the mortgage, or, if no rate is provided, at the statutory judgment rate.

V. ULTIMATE FINDINGS.

(1) The allegations of Plaintiff's Complaint are true substantially as set forth, the equities in the cause are with Plaintiff, and Plaintiff is entitled to the relief requested in the Complaint including foreclosure of said mortgage upon the real estate described therein in the amount of the Total Balance Due, as found in II, paragraph (3) k. above, together with interest thereon at the statutory rate after the entry of this judgment and additional court costs, including publication costs and expenses of sale.

(2) All lien or mortgage claimants defaulted are found and declared to have no interest in the real estate foreclosed, as they have offered no evidence of said interest.

- (3) Said real estate is free and clear of all liens and encumbrances except:
- a. General real estate taxes for the years 2000 and prior subsequent years thereafter and special assessments, if any.
 - b. Said mortgage given to Plaintiff which has attached to the Manteno property.
 - c. The federal tax liens for unpaid federal income tax assessments against Rex E. Black and Carol L. Black, jointly and severally for the years 1997 and 1998 which have attached to the Manteno property.

(4) The mortgage lien claim of the Plaintiff, MUNICIPAL TRUST & SAVINGS BANK, constitutes a valid, prior and paramount lien upon the indicated interest in the mortgaged real estate, which lien is prior and superior to the right, title interest, claim or lien of all parties and nonrecord claimants. The tax lien claim of the United States of America is subordinate to the mortgage lien claim of the Plaintiff, MUNICIPAL TRUST & SAVINGS BANK. The interests of all parties, and non record claimants, other than the Plaintiff, MUNICIPAL TRUST & SAVINGS BANK, and the United States of America, in the mortgaged real estate, have been terminated by this foreclosure.

(5) The Plaintiff, MUNICIPAL TRUST & SAVINGS BANK, an Illinois banking Corporation is owed \$233,112.49 as of May 3, 2005 plus any post-judgment interest, fees, expenses or costs paid or incurred by said Plaintiff and allowable under this judgment.

(6) The sum of attorney fees allowed herein as stated above is the fair, reasonable and proper fee to be allowed to Plaintiff as attorney's fees in this proceeding in accordance with the terms of the note and mortgage given to Plaintiff by said Defendants, which should be added to and become a part of the indebtedness due to Plaintiff.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that a judgment for foreclosure and sale is granted to Plaintiff and against all Defendants.

VI. ORDER UPON DEEMED REQUEST FOR FORECLOSURE.

(1) An accounting has been taken under the direction of the court of the amounts due and owing to the Plaintiff as declared herein.

(2) In the event the Plaintiff is a purchaser of the mortgaged real estate at such sale, the Plaintiff may offset against the purchase price of such real estate the amounts due under the judgment for foreclosure and order confirming the sale.

VII. ORDER FOR UNITED STATES MARSHAL'S SALE.

1. The United States Marshal for this District, shall, at the direction of the Tax Division of the United States Department of Justice, at a date and time to be determined by the Marshal, conduct a public auction of the Manteno property at the Will County courthouse.
2. The Marshal shall cause notice of the auction to be published once a week for at least three weeks prior to the sale in at least one newspaper of general circulation in this judicial district. That notice shall set forth the date, time, and place of the sale, a description of the property and the terms and conditions of the sale.
3. The Manteno property shall be sold to the party making the highest bid, so long as that highest bid equals or exceeds the sum of \$836,000.
4. Any person wishing to bid at the sale shall display to the United States Marshal, or his representative, proof that he or she is able to deposit with the Marshal, by cash or certified or cashier's check, in the sum of \$100,000. The successful high bidder shall then deposit the sum of \$100,000 with the Marshal immediately after the conclusion of the auction.
5. Within 10 days after the auction, the successful high bidder shall pay to the Marshal the balance of the amount of his or her bid by cash (including wire transfer) or certified or cashier's check. If the high bidder fails to tender the balance of the high bid price, his or her deposit shall be forfeited and retained as a part of the proceeds of sale.
6. After the Marshal receives the balance of the high bid amount, the United States shall file a motion for confirmation of the sale.
7. Upon the entry of an order confirming the sale, the United States Marshal shall deliver to the purchaser a deed to the Manteno property in a form to be approved in that order confirming the sale.
8. The United States Marshal or his representative is authorized to have free access to the Manteno property and to take all actions necessary to preserve it, until the deed to the Manteno property is delivered to the ultimate purchaser.

9. The sale of the Manteno property shall be free and clear of any right, title, claim, or interest of any of the parties to this action, and shall be subject to building lines if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances), affecting the premises, and easements and restrictions of record, if any.
10. Rex E. Black shall not record any instruments, publish any notice, or take any action (such as running newspaper advertisements) that may directly or indirectly tend to adversely affect the value of the real property or that may tend to deter or discourage potential bidders from participating in the public sale of the real property.
11. When the sale of the real property is confirmed by this Court, the Will County Recorder shall permit transfer of the realty to be reflected on the county's register of deeds and/or title.
12. The proceeds of the sale of the Manteno property shall be distributed as follows: First, to satisfy the costs of the sale incurred by the U.S. Marshal, including advertising and other expenses; second, to satisfy any outstanding real property taxes owed with respect to the Manteno property; third to Municipal to satisfy its mortgage to the extent provided at 26 U.S.C. 6323 (a); and fourth, to the United States for application to the unpaid federal income tax liabilities of Rex E. Black and Carol L. Black for the years 1997 and 1998.

THE COURT expressly retains jurisdiction of the property which is the subject of this foreclosure and Marshal's Sale, and for so long thereafter as may be necessary for the purpose of placing in possession of the premises the grantee or grantees in said Deed or his or their legal representatives.

IT IS FURTHER ORDERED that after entry of the Order Confirming the Marshal's Sale herein, the United States Marshal for the United States District Court, Northern District of Illinois be and hereby is authorized to evict the Defendants and any other person in possession of the property from the property and to place the grantee of the Deed in possession of the property

VIII. OTHER MATTERS.

(1) POSSESSION

Plaintiff has prevailed on a final hearing of this cause; The holder of the Deed executed by the United States Marshal for the United States District Court, Northern District of Illinois shall have exclusive possession of said real estate after entry of the Order Confirming Sale herein, and, as the holder of the certificate of sale shall have Plaintiff's right to be placed in possession of said real estate.

(2) HOMESTEAD WAIVER

Defendants-mortgagors waived their right to homestead or other exemptions in said real estate in the body of said mortgage, which were duly signed and acknowledged, and said Defendants-mortgagors are therefore barred from claiming any right to homestead or other exemptions in said real estate.

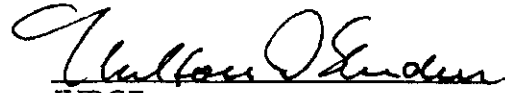
(3) DEFICIENCY

If the money arising from said sale shall be insufficient to pay the amounts due to the Plaintiff with interest and the costs and expenses of sale, the person conducting the sale shall

specify the amount of such deficiency in the report of sale, and a judgment shall be entered therefore, if appropriate.

Dated this 17 day of June, 2005.

ENTER:


JUDGE

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FORECLOSURE: Rock Creek Federal Court Order 5-2005